

NOT FOR PUBLICATION

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Devonte Spears,

Petitioner,

v.

Unknown Heisner.

Respondent.

No. CV-23-00385-PHX-SRB (DMF)

ORDER

Petitioner filed his Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 on February 28, 2023 raising one ground for relief “claiming the Federal Bureau of Prisons (BOP) has incorrectly calculated the amount of jail credit that should be ‘applied to Federal and State sentence[s] ordered to run concurrently.’” (Doc. 5 at 1; *see also* Doc. 1) Respondents filed their Response to Petitioner’s Petition for Writ of Habeas Corpus on May 11, 2023. No reply was filed. On June 28, 2023, the Magistrate Judge issued her Report and Recommendation recommending that the petition “be dismissed without prejudice for failure to prosecute and failure to follow the Court’s Order regarding filing a notice of change of address. Also, due to Plaintiff’s release from custody on April 20, 2023, the Petition has become moot.” (Doc. 17, Report and Recommendation (“R&R”) at 9.)

In her Report and Recommendation, the Magistrate Judge advised the parties that they had fourteen days from the date of service of a copy of the Report and Recommendation within which to file specific written objections with the Court. The time to file such objections has expired and no objections to the Report and Recommendation have been filed.

The Court finds itself in agreement with the Report and Recommendation of the

1 Magistrate Judge.


2 **IT IS ORDERED** adopting the Report and Recommendation of the Magistrate
3 Judge as the order of this Court.

4 **IT IS FURTHER ORDERED** dismissing the Petition for Writ of Habeas Corpus
5 without prejudice.

6 **IT IS FURTHER ORDERED** denying any Certificate of Appealability and leave
7 to proceed in forma pauperis on appeal because Petitioner has not made a substantial
8 showing of the denial of a constitutional right.

9 **IT IS FURTHER ORDERED** directing the Clerk to enter judgment accordingly.

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11 Dated this 19th day of July, 2023.

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16 Susan R. Bolton
17 United States District Judge
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